

§ 750.48

value of any salvaged parts or materials and the amount of any net appreciation in value effected through the repair shall be deducted from the actual or estimated gross cost of repairs. The amount of any net depreciation in the value of the property shall be added to such gross cost of repairs, if such adjustments are sufficiently substantial in amount to warrant consideration. Estimates of the cost of repairs shall be based upon the lower or lowest of two or more competitive bids, or upon statements or estimates by one or more competent and disinterested persons, preferably reputable dealers or officials familiar with the type of property damaged, lost, or destroyed.

(b) If the property cannot be economically repaired, the measure of damages shall be the value of the property immediately prior to the incident less the value immediately after the incident. Estimates of value shall be made, if possible, by one or more competent and disinterested persons, preferably reputable dealers or officials familiar with the type of property damaged, lost, or destroyed.

(c) Loss of use of damaged property which is economically repairable may, if claimed, be included as an additional element of damage to the extent of the reasonable expense actually incurred for appropriate substitute property, for such period reasonably necessary for repairs, as long as idle property of the claimant was not employed as a substitute. When substitute property is not obtainable, other competent evidence such as rental value, if not speculative or remote, may be considered. When substitute property is reasonably available but not obtained and used by the claimant, loss of use is normally not payable.

§ 750.48 Measure of damages in injury or death cases.

(a) Where an injury or death arises within the United States or its territories, commonwealth, or possessions, determine the measure of damages under the law of the location where the injury arises.

(b) Where an injury or death arises in a foreign country and is otherwise cognizable and meritorious under this provision, damages will be determined in

32 CFR Ch. VI (7-1-10 Edition)

accordance with general principles of American tort law. The following is provided as guidance.

(1) *Measure of damages for overseas personal injury claims.* Allowable compensation includes reasonable medical and hospital expenses necessarily incurred, compensation for lost earnings and services, diminution of earning capacity, anticipated medical expenses, physical disfigurement, and pain and suffering.

(2) *Wrongful death claims arising in foreign countries.* (i) Allowable compensation includes that in paragraph (b)(1) of this section, burial expenses, loss of support and services, loss of companionship, comfort, society, protection, and consortium, and loss of training, guidance, education, and nurturing, as applicable.

(ii) The claim may be presented by or on behalf of the decedent's spouse, parent, child, or dependent relative. Claims may be consolidated for joint presentation by a representative of some or all of the beneficiaries or may be filed by a proper beneficiary individually.

§ 750.49 Delegations of adjudicating authority.

(a) *Settlement authority.* (1) The Secretary of the Navy may settle or deny claims in any amount. The Secretary may pay the first \$100,000.00 and report the excess to the Comptroller General for payment under 31 U.S.C. 1304. *See* 10 U.S.C. 2733(d).

(2) The Judge Advocate General has delegated authority to settle claims for \$100,000.00 or less.

(3) The Deputy Judge Advocate General, the Assistant Judge Advocate General (General Law), the Deputy Assistant Judge Advocate General (Claims and Tort Litigation), and Head, Tort Claims Branch (Claims and Tort Litigation), have delegated authority to settle claims for \$25,000.00 or less, and have denial authority in any amount.

(4) Individuals with settlement authority under paragraph (a)(3) of this section may delegate all or part of their settlement authority. Such delegation must be in writing.

(b) *Appellate authority.* Adjudicating authorities have the same authority as